UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ELLIOT A. GOTTFURCHT, GRANT E. GOTTFURCHT
J. TEAGUE MCKNIGHT, MANUEL V. BELTRAN, STEPHEN K. WOESNER,
JOHN A. MARINUZZI, ALBERT-MICHEL C. LONG
and DONALD L. DUKESHIRE

Appeal No. 2006-2191
Application No. 10/108,147

HEARD: SEPTEMBER 13, 2006

Before KRASS, RUGGIERO, and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 40-45, 54-59 and 105-137. Claims 1-17, 39, 46-53 and 60-77 have been canceled while claims 18-38 and 78-104 have been withdrawn from consideration.

We reverse.

BACKGROUND

Appellants' invention is directed to a method and system for facilitating navigation of the Internet or other content sources

such that access to the desired content may be available to a broader user base. According to Appellants, data obtained from the content source is mapped to a format suitable for navigation through a navigation matrix .

Representative independent claim 105 is reproduced below:

105. A method for interactive navigation comprising:

displaying one or more advertisements on a display;

receiving a user selection of a displayed advertisement; and

displaying content accessed via the internet, wherein the displayed content is associated with the selected advertisement, and

wherein the content accessed via the internet is formatted for navigation with unique inputs.

The Examiner relies on the following references in rejecting the claims:

	U.S. Patent	
Fujita	5,598,523	Jan. 28, 1997

	U.S. Patent Application Publication	
Ward et al. (Ward)	US 2005/0010949 (effectively filed Jul. 21, 1998)	Jan. 13, 2005

Claims 40-45, 54-59 and 105-137 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ward and Fujita.

Rather than reiterate the opposing arguments, reference is made to the brief and answer for the respective positions of Appellants and the Examiner.

OPINION

The initial burden of establishing reasons for unpatentability rests on the Examiner. In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). The Examiner must produce a factual basis supported by teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration, consistent with the holding in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966). Our reviewing court requires this evidence in order to establish a prima facie case. In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984); In re Cofer, 354 F.2d 664, 668, 148 USPQ 268, 271-72 (CCPA 1966). However, "the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." In re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

The focus of Appellants' argument is that the combination of the references fails to disclose the limitation of "formatting Internet retrieved content for navigation" (brief, page 3). Appellants argue that although Fujita matches menu items uniquely to keys on a remote, it uses preset menu items that are locally generated and cannot be acquired from any remote content source

(brief, pages 4-6; oral hearing). Appellants further assert that such menu items while being navigated through, contain no formatting of content for navigation (id.).

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the Examiner's decision on appeal, the Board must necessarily weigh all of the evidence and argument." In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). In this case, as discussed by Appellants, the portions of Fujita relied on by the Examiner (answer, pages 4-5)) merely describe an apparatus for controlling equipments from a remote location. In Fujita, a key pad, having unique inputs, facilitates access to the menu options provided by each equipment without discussing any content accessed through the Internet or any of the devices. In that regard, we agree with Appellants that matching control menu items with a set of key pads is not the same as the claimed formatting content that is obtained via the Internet.

We also find that, contrary to the Examiner's analysis, Fujita has nothing to do with formatting content accessed via Internet for navigation. As such, the Examiner has failed to provide sufficient evidence to show that Fujita would have taught

formatting Ward's accessed advertisements to one of ordinary skill in the art. Thus, assuming, arguendo, that it would have been obvious to combine Ward and Fujita, as held by the Examiner, the combination would still fall short of teaching or suggesting the claimed formatting content accessed via the Internet, as recited in independent claims 105, 121 and 137 . Accordingly, based on the weight of the evidence and the arguments presented by the Examiner and Appellants, we do not sustain the 35 U.S.C. § 103 rejection of claims 40-45, 54-59 and 105-137 over Ward and Fujita.

CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 40-45, 54-59 and 105-137 under 35 U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS Administrative Patent Judge	)	
JOSEPH F. RUGGIERO Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
MAHSHID SAADAT Administrative Patent Judge	)	

MDS/eld

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